THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.17952 of 1999

Date: 14.03.2007

Between:

Thankachan Jacob.

....Petitioner

And

The Joint Sub-Registrar, Registration and Stamps Department, Aanthapur and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.17952 of 1999

O R D E R:

The petitioner purchased an extent of Ac.2.78 cents in Survey No.153/1 and Ac.0.46 cents in Survey No.160/4 of Kakallipalli Village, Ananthapur Rural Mandal from one T.Mohan Gupata. A sale deed, dated 27.03.1996, was executed in his favour, and the same was presented before the first respondent for registration, in the month of March itself. It was given P.No.506 of 1996 and was kept pending, on the ground that the stamp duty and registration fee paid by the petitioner is inadequate. The grievance of the petitioner is that no reference was made under Section 47-A of the Indian Stamp Act, 1899 (for short 'the Act') and the then Joint Sub-Registrar had withheld the document highhandedly. He seeks a Writ of Mandamus, to declare the action of the first respondent as illegal, arbitrary, and consequential directions.

The first respondent filed a counter affidavit. He

stated that the property covered by the document has potential of house sites and that at the relevant point of time, its value was Rs.90/- per square yard. According to him, he has power under Section 41 of the Act; and unless the petitioner pays the differential stamp duty and registration charges, he cannot claim release of the document. He asserts that there is no necessity to refer the matter under Section 47-A of the Act to the District Registrar.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The Act provides for the steps to be taken, where the registering authority finds that the stamp duty and registration charges paid for the document presented before him are inadequate. The petitioner asserts that the revenue authority under the Act had assessed the value of the land at Rs.30,000/- per acre, whereas the stamp duty and registration fee was paid at Rs.58,642/- per acre. Assuming that the value of the property, as entered in the basic value register, is higher, the first respondent has no jurisdiction to withhold the document. In case, he is not in agreement with the value shown in the document, the only course open to him is to refer the same to the District Registrar under Section 47-A of the Act. A further

appeal is provided to the civil Court. For an entire decade, the first respondent withheld the document, without any legal basis. The action of the first respondent is despicable.

The record discloses that the Officer, who dealt with the matter, had since retired. Otherwise, it would have been a case, where the quantum of damage suffered by the petitioner ought to have been recovered from him, since his action in withholding the document cannot be traced to any provision of law.

For the foregoing reasons, the Writ Petition is allowed and the action of the first respondent in withholding the document and not releasing it, after registration, is held to be illegal and contrary to the provisions of the Indian Stamp Act and the Registration Act. The first respondent is directed to take necessary steps, in accordance with the provisions of the Indian Stamp Act and the Registration Act, to register and release the document bearing P.No.506 of 1996, within two (2) months from today. The respondent shall pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the petitioner towards costs.

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14.03.2007

JSU